

FAX 1 571 273 2414

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Gregg Wagner et al.

Serial Number: 09/854,344

Art Unit: 2877

Filed: May 11, 2001

Examiner: Fannie L. Evans

For: HANDHELD, PORTABLE COLOR MEASURING DEVICE WITH DISPLAY

AMENDMENT AFTER FINAL REJECTION

Honorable Commissioner of Patents and Trademarks

Washington, D.C. 20231

Sir:

Responsive to an Office Action Summary dated February 27, 2004 finally rejecting amended claims 1-20. Please consider the following documents, amendments to the claims and remarks related to the allowance of the amended claims.

STATUS OF THE APPLICATION

A request for continued examination of the subject application under 37 CFR 1.114, including the fee, filed on December 18, 2003 has been entered.

The affidavit under 37 CFR 1.132 filed on December 18, 2003 is insufficient to overcome the rejections of claims 1-20 based on a prior art patent to Wagner et al., U.S. Patent 6,157,454.

Claims 1, 2, 4, 5, 12, 14-16, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by the patent to Wagner et al.

Claims 3, 17 and 18 are rejected under 35 U.S.C. 103(a) as being obvious based on Wagner et al. in view of a patent to Jung et al.

Claims 6-8, 10, 11 and 13 are rejected under 35 U.S.C. 103(a) as being obvious based on Wagner et al. in view of a published application to Keane et al.

Claim 9 is rejected under 35 U.S.C 103(a) as being obvious based on Wagner et al. in view of Keane et al. and in further view of Jung et al.

POWER OF ATTORNEY AND WRITTEN CONSENT OF ASSIGNEE

Enclosed is a signed Power of Attorney by an officer of the assignee of the subject patent application, Color-Spec Technologies, Denver, Colorado. The Power of Attorney gives the undersigned patent attorney the power to prosecute the subject application in the U.S. Patent and Trademark Office and to assist the inventors and assignee in obtaining any patent issuing on the application. Also, the assignee includes written consent in the change of original inventors based on 37 CFR 1.48(b).

PROCESSING FEE UNDER 1.48 FOR CORRECTING INVENTORSHIP

Enclosed is a signed USPTO Credit Card Payment Form for \$130.00 for a processing fee under 37 CFR 1.48 to correction inventorship.

**COMBINATION DECLARATION UNDER 37 CFR 1.132, AMENDMENT
UNDER 35 U.S.C. 116 BY 37 CFR 1.48(b) and CORRECTED DECLARATION OF
INVENTORSHIP**

Enclosed is an Declaration under 37 CFR 1.132 declaring that the two co-inventors of the subject matter found in claims 1, 2, 4-8, 10-16 and 19-20 may be

disclosed but not claimed in U.S. Patent 6,157,454 and was derived by the same two co-inventors of the subject application and is thus not the invention "by another" under 35 U.S.C. 102(e).

Also combined with the above Declaration under 37 CFR 1.132 is an Amendment under U.S.C. 116 by 37 CFR 1.48(b) and Corrected Declaration of Inventorship declaring the true inventors of the amended application are Greg Wagner and Gary Emerson. These two inventors are co-inventors of the subject matter found in original claims 1, 2, 4-8, 10-16 and 19-20. A third inventor, Robert Stewart, a co-inventor of the subject matter found in claims 3, 9, 17 and 18, has been removed as a co-inventor with the cancellation of these claims.